

ZONING BOARD OF APPEALS

APRIL 20, 2015 MEETING MINUTES

Present: Chairman Ron Nolland, Kathleen Insley, Scott DeMane,
Kellie Porter (Alt)
Joe McMahon, Building Inspector

ABSENT: Connie Fisher, Kathy Latinville (Alt.)

Also Present:

Appeal #2028	Dave Davis
Appeal #2029	Dave Davis Gerald Lack Michael Davis
Appeal #2030	Donald Vanleeuwen

Mr. Nolland called the meeting to order at 7:03 PM. The following items were on tonight's agenda.

APPEAL	APPLICANT	REQUEST
2028	DAVID DAVIS 69 WALL STREET	CLASS A VARIANCE CONSTRUCT A 4 UNIT NEW APARTMENT BUILDING IN AN INDUSTRIAL DISTRICT
2029	DAVID DAVIS 69 WALL STREET	CLASS B VARIANCE REQUEST FOR LESS PARKING THAN REQUIRED, PAVING TO CLOSE TO PROPERTY LINE AND CONSTRUCT BUILDING WITHIN FRONT AND SIDE YARD SETBACKS
2030	DONALD VANLEEUEWEN 161 BROAD STREET	SPECIAL USE PERMIT FENCE HIGHER THAN 6'

The order of the agenda was changed. Appeal #2030 will be heard first, then Appeal #2028 and 2029 will be heard next.

Mr. Nolland reminded the applicants this is a 5 member board. There are only 4 members present for tonight's meeting. The applicant has the right to have 5 members vote. The applicant needs 3 positive votes to pass a motion.

No board member has a conflict with any of the above appeals.

Any postponement will be on the board's behalf.

A Special User Permit is a matter of right but the applicant must come before this board to get approval. In order for the board to deny a SUP, it must be a detriment to the neighborhood or totally change the character of the neighborhood.

Mr. Nolland explained there are 3 things in the table of uses in the back of the zoning book that states what the applicant can and cannot have. Some things are allowed as a principle use. Some are allowed as an accessory use and some allowed by special permit. In the section about fence, there is a section that states people can have fences over 6' tall with a SUP. Since then we have been treating them that way.

Mr. VanLeeuwen stated he did not want to postpone his appeal.

The **first** item heard was Appeal #2030, 161 Broad Street for a Special Use Permit for a fence higher than 6’.

[Meter 3:39]

Mr. Nolland discussed the application. Mr. Vanleeuwen explained he is asking for a 7’ fence on the East side. The diagonal fence that exists now will be replaced with another 6’ fence. On the corner back will be 7’. There is no fence there and since there is a pool it’s technically out of compliance. When the hedge collapsed, he lost a lot of privacy between their property line and the neighbors.

Mr. Nolland asked why not a 6’ fence in the front. Mr. Vanleeuwen said their primary concern is not the front; its safety and privacy around the pool area. [Further discussion, Meter 6:17].

The board had no questions.

AUDIENCE COMMENTS:

There being none, the chairman closed the Public Hearing portion of the meeting. [Meter 7:23 PM]

SHORT FORM SEQR:

CHANGES:

- | | |
|---------------|-----------------------------------|
| Page 2 of 3 | B. d. Add “Building Permit.” |
| | i. ii. Change “No” to “Yes.” |
| | C. 2.a. Change “No” to “Yes.” |
| Page 13 of 13 | h. Change “No.” to “Yes.” |

MOTION: PART 2:

By Ms. Insley, seconded by Mr. DeMane

THAT THIS BOARD FINDS THE PROJECT WILL RESULT IN NO SIGNIFICANT ADVERSE IMPACTS ON THE ENVIRONMENT AND THEREFORE AN ENVIRONMENTAL IMPACT MAY NOT BE PREPARED ACCORDING TO THIS NEGATIVE DECLARATION

ALL IN FAVOR: 4

MOTION:

By Mr. DeMane, seconded by Ms. Porter

THAT THE BOARD APPROVES APPEAL #2030 FOR DONALD VANLEEUVEN AT 161 BROAD STREET FOR A SPECIAL USE PERMIT FOR A FENCE HIGHER THAN 6' TO INCLUDE ALL OF THE FENCE AS SHOWN ON THE SKETCH; TO INCLUDE THE 6' FENCE AND GATE TO BE REPLACED AND TO ALLOW UP TO A 7' FENCE ALONG THE DIAGONAL AND SIDE YARD ABUTTING HIS NEIGHBOR ON BROAD STREET

ALL IN FAVOR: 4

OPPOSED: 0

MOTION PASSED

The **next 2** items heard were Appeal #2028 and 2029, David Davis, 69 Wall Street. Appeal #2028 was a Class A Variance to Construct a 4 Unit New Apartment Building in a n Industrial District. Appeal #2029 was a Class B Variance for less parking than required, paving to close to the property line and construct building within front and side yard setback.

[Meter 15:22]

Mr. Nolland advised Mr. Davis had revised his application from a 4-plex down to a duplex.

Mr. Gerald Lack, 76 Wall Street interrupted asking why wasn't everybody informed of that. Mr. Nolland explained the original variance request was for a 4 unit complex. Mr. Lack said they were never informed of that, as prior of this meeting. Mr. Nolland stated this was not the public hearing portion of the meeting. Mr. Lack understood.

Mr. Nolland stated the original application was for a 4 plex. Mr. Davis came last month and the board tabled it. They asked Mr. Davis to come back with a different plan. Mr. Davis then brought the additional information in, which was to go to a 2 unit. Mr. Lack understood this but when they received notice of this meeting, they weren't notified that there was an amended application. Mr. Nolland understood his comment but explained the post cards were mailed before Mr. Davis' revised plan came in. Mr. Nolland advised they were not having the public hearing portion now.

Mr. McMahon advised this is pretty standard practice. If Mr. Davis had done the opposite – if he'd would have asked for a two family and then changed to a four family – which is more of a variance, than the Building Inspectors office would have stopped all the wheels and sent everything out new. Since he was coming in for less of a variance, this was policy to keep the same information in place. It came in late so all the mailings had already gone out. He had to get more information to the office anyway so we knew he was on the agenda. He came back later with a new plan.

Mr. Nolland advised Mr. Davis there were 4 board members voting tonight. Mr. Davis asked if he agreed to be heard tonight, and it doesn't get approved, where does that leave him. Mr. Nolland advised he couldn't come back with the same application for a year.

Mr. McMahon added the plan would have to be substantially different.

Mr. Davis said the financial feasibility wouldn't really allow him to do anything substantially different than what he is doing. Mr. Nolland said they could start this and if at some point he doesn't like where it's heading, he can ask for a postponement.

Mr. Nolland reiterated there are 6 members of the board but only 4 were present tonight.

Mr. Davis commented he is in no hurry for this project.

Mr. McMahon recommended since Mr. Davis is considering postponing it that we don't start to talk about it. Mr. DeMane agreed, stating all testimony would have to be discussed again.

Mr. Davis stated he would like to have 5 board members present.

Mr. DeMane also stated they gave Mr. Davis a 2 month postponement so that postponement is still in effect.

Mr. Nolland said they will put Mr. Davis on the agenda for next month. He asked Mr. Davis to revise the application completely and ask for a "2 Unit." The Building Inspectors Office will then send out correct information. Mr. Davis agreed.

Mr. Nolland acknowledged they had his financial information and his new plan. Those are available for viewing at the Building Inspectors Office, the City website and a matter of public record. Mr. Davis also advised he will also submit elevation drawings.

Mr. Nolland then explained to the audience about postponements. [Meter 24:48] Mr. Lack advised the board did not treat his mother-in-law like this when she was in for a fence variance. Mr. Nolland said he didn't think that was true. They treat everybody the same. It's part of the process.

Mr. Davis appreciated the board's information.

MOTION:

By Ms. Inlsey, seconded by Mr. DeMane

TO APPROVED THE MARCH 16, 2015 ZONING BOARD MINUTES

ALL IN FAVOR: 4

Motion to Adjourn:

By Mr. DeMane, seconded by Ms. Insley

Adjourned at 7:41 PM

For the purpose of this meeting, this meeting was recorded on the VIQ System in the Common Council Chambers. This is a true and accurate copy and transcription of the discussion.

Denise Nephew
Secretary
Zoning Board of Appeals